

REMARKS

Claims 1-4, 22, 23, 25-30, 41-43, 51-53 and 56-62 are pending in this application. Claims 22, 23, 25-30 and 56-58 have been cancelled. Claims 1 and 60 have been amended. New claim 63 has been added. Accordingly, claims 1-4, 41-43, 51-53 and 59-63 are presented for further prosecution.

The undersigned attorney and Applicants' representatives wish to thank the Examiner for the courtesy extended during the personal interview held on November 1, 2007. The claim amendments set forth above and the remarks that follow are consistent with the discussions held during the interview.

Claims 1-4, 42, 43 and 51-53 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claim 1 has been amended to delete the terms "diazepanyl" and "decahydroisoquinolin-2-yl" from the definition of Q. As suggested by the Examiner, new claim 63 has been added directed to the species of Example 22. Accordingly, Applicants submit that this ground of rejection has been traversed.

Claims 1-4, 22, 23, 25-30, 41-43, 51-53 and 56-62 have been rejected under 35 U.S.C. § 112, first paragraph, as being non-enabled for solvates. This ground of rejection is moot with respect to cancelled claims 22, 23, 25-30 and 56-58. As to the remaining claims, claim 1 has been amended to delete the word "solvate". In view of the foregoing, Applicants submit that this ground of rejection has been traversed.

Claims 1-4, 42, 43, 51-53, 59 and 60 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claim 1 has been amended to delete the word "alkyl" at the end of the definition for Q. This term should have been deleted in the amendment of claim 1 set forth in applicants' response to the previous Office Action. Claim 60 has been amended to correct the typographical error in the nomenclature for the recited species. Claim 28 has been deleted, rendering the rejection issued in paragraph 5 b) moot.

Claims 1-4, 41-43, 51-53 and 56-62 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,883,096 (the '096 patent). As discussed during the interview, the '096 patent discloses compounds which are selective m2 and/or m4 antimuscarinics. There would simply be no motivation to consider the structure of compounds that exhibit selective binding to muscarinic receptors where the skilled person is

looking to develop compounds exhibiting selective binding activity for an entirely different biological target, namely, the H₃ receptor.

As further discussed during the interview, the compounds encompassed by the instant claims are nowhere taught or even suggested by the '096 patent. In particular, the claimed compounds require a carbonyl linker between the piperazine ring and the phenyl ring illustrated in formula I, a -CH₂- linker between the phenyl ring and the R⁴ substituent, and the requirement that Q be an unsubstituted N-linked heterocyclyl selected from the Markush group recited in the claim. Applicants representatives pointed out during the interview that the '096 patent fails to disclose or suggest any compounds having all of these required structural features. Moreover, the reference teaches directly away from such compounds since the preferred and most preferred compounds, referenced at column 44, lines 18-28, present significant structural differences from the claimed compounds. After a full discussion of these issues during the interview, the Examiner agreed that upon a satisfactory completion of all of the species disclosed in the '096 patent the obviousness rejection would be withdrawn.

In view of the foregoing, Applicants believe that the claims patentably distinguish over the '096 patent. Should this ground of rejection be withdrawn and the claims otherwise be in condition for allowance, the Examiner indicated that the rejection based on obviousness-type double patenting would also be withdrawn.

Applicants hereby petition for a three-month extension of time to respond to the outstanding Office Action. Please charge the extension fee required for this Response, and any other fees that may be required, to Deposit Account No. 10-0750/PRD2033/JSK.

Should the Examiner have any questions regarding this Response, please contact the undersigned attorney at the telephone number listed.

Respectfully submitted,

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